

# San Francisco Bay Conservation and Development Commission

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November 14, 2014

**TO:** All Commissioners and Alternates

**FROM:** Lawrence J. Goldzband, Executive Director (415/352-3653; [larry.goldzband@bcdc.ca.gov](mailto:larry.goldzband@bcdc.ca.gov))

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**SUBJECT: Draft Minutes of November 6, 2014 Commission Meeting**

1. **Call to Order.** The meeting was called to order by Chair Wasserman at the Ferry Building, Port of San Francisco Board Room, Second Floor, San Francisco, California at 1:11 p.m.

2. **Roll Call.** Present were: Chair Wasserman, Vice Chair Halsted, Commissioners Bates, Gibbs, Gioia, Lucchesi (represented by Alternate Pemberton), McGrath, Nelson, Pine, Randolph, Sartipi, Sears, Spering (represented by Alternate Vasquez), Techel, Vierra (represented by Alternate Doherty), Wagenknecht (represented by Alternate Caldwell) and Zwissler. Jane Hicks was also present.

Not present were: Association of Bay Area Governments (Addiego and Apodaca), Alameda County (Chan), San Francisco County (Chiu), Santa Clara County (Cortese), Department of Finance (Finn), Sonoma County (Gorin), Governor's Appointee (Jordan Hallinan) and U.S. Environmental Protection Agency (Ziegler).

3. **Public Comment Period.** Chair Wasserman called for public comment on subjects that were not on the agenda.

David Lewis of Save the Bay commented: I wanted to share with everyone a copy of our 2015 calendar.

I also wanted to introduce Save the Bay's new political director, Paul Kumar, who is here today. Paul has a distinguished career here in the Bay Area mostly working with the Service Employees Union and other organized labor on health care and many other issues. He has been involved in quite a number of local campaigns and political efforts on a wide range of issues.

We look forward to working with you on these and other issues next year.

Chair Wasserman moved to Approval of the Minutes.

4. **Approval of Minutes of the October 16, 2014 Meeting.** Chair Wasserman asked for a motion and a second to adopt the minutes of October 16, 2014.

**MOTION:** Commissioner Gioia moved, seconded by Vice Chair Halsted, to approve the October 16, 2014 Minutes. The motion carried by a voice vote with Commissioners Hicks, Randolph, Sartipi, Sears and Zwissler abstaining.

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5. **Report of the Chair.** Chair Wasserman reported on the following:

a. **New Business.** Chair Wasserman asked: Does anyone want to suggest something as new business to put on a future agenda? Now is an opportunity to do that. (He received no comments)

The Chair continued, a brief report on plans for our 50<sup>th</sup> anniversary which is next year. Our Executive Director through careful legal research and consultation with legions of lawyers has determined that the law took effect on September 17<sup>th</sup>, forty-nine years ago. We will keep you apprised of developments. We are looking for venues now. We are taking three preliminary actions.

One is to look for venues, two is to solicit some informal bids for a planner to do this and the third action relates to the fundraising for that. We are going to form a non-profit. It will have two very limited purposes. One of the purposes will be to raise funds for that party and for this purpose we will set up some very strict guidelines. The second purpose will be a longer standing one. It will be to be a recipient for grants from entities such as foundations which would like to support some of our activities but have policies against giving contributions to government agencies.

We have an exciting historical presentation today but before we do that I would ask Commissioner Sears to give us a brief report on a community meeting she had on rising sea level in Marin County.

Commissioner Sears reported the following: I am sending around some programs for the Commission to look at. About a year and a half ago I created a pilot project on sea level rise on an area of the Richardson Bay shoreline in southern Marin. It was loosely based on BCDC's Adaption to Rising Tides Project. I initially created a steering committee of residents and business owners in the area of the pilot study.

We did asset mapping and assessing vulnerability and considering adaptation options. The goal was to take it out to the public and try to engage our residents in a conversation about sea level rise.

We had the public session on Saturday. It was an incredible success. We had three presentations giving everyone an accelerated crash course on adaptation planning. Then we had table top exercises. Each table had a map of the area showing three feet of sea level rise impacts and little icons to decide what they wanted to do; to put in a levee or do wetlands restoration or all sorts of different things that they might consider doing.

The conversations around each table were incredibly robust. What we're planning to do next is come back sometime early in 2015 and have some three-dimensional modeling of some of the ideas that people suggested during that public meeting.

It was very encouraging to me that you can take these concepts and a very challenging idea of the threat of sea level rise and really get productive engagement.

I'm hoping that we created a model that can be replicated in other parts of Marin County and elsewhere in San Francisco.

Chair Wasserman added: I would encourage those throughout the Bay Area to think about replicating this. Supervisor Pine has held a number of events in San Mateo County about rising sea level. These kinds of activities make a whole lot of sense. I would ask staff to do a little list of the ones that have been undertaken if any of you want materials on them. We're going to have to keep pushing and pushing in this area.

Chair Wasserman continued, next, we have the second of our presentations on BCDC's storied history. Joe Bodovitz was BCDC's first Executive Director and, before that, a successful journalist, and will talk to us about his experience. He helped shape the Commission in the beginning and establish its strong reputation for fair, transparent and thoughtful implementation of our mandate to protect and develop the Bay shoreline. Joe always has argued that it's not only important to remember what BCDC accomplished during its early history, but equally important to remember the pitfalls and mistakes that it avoided. Joe enjoyed his tenure with BCDC so much that he went on to repeat the effort as the first Executive Director for the Coastal Commission. He was recruited to that position by the Coastal Commission's first Chair, Mel Lane, who had also been BCDC's first Chair. Joe will now share with us what the Commission might have been and how he and others guided it instead to the firm ground and foundation that we have today.

Mr. Bodovitz presented the following: I feel like some emissary from the Middle Ages as you approach the 50<sup>th</sup> anniversary of BCDC. You are probably aware of the three wonderful women who started all of this in the early 60's. They were Kay Kerr whose husband was Clark Kerr, then President of the University of California, Sylvia McLaughlin whose husband Don was Chairman of the Board of Regents at U.C. Berkeley and Esther Gulick whose husband was a retired math professor.

Kay had a house in the Kensington Hills and she used to entertain visitors there. When she became alarmed at reading in the press that the city of Berkeley wanted to fill in its tidelands out to the end of the Berkeley Pier, she began to worry about what would happen not only to that part of the Bay but other parts of the Bay where people might be planning to fill and the lack of coordination and planning behind all of that.

So she and the other two women formed the Save San Francisco Bay Association and went on from there. They didn't quite know what they wanted to do. They asked Nick Petris who was then an Assemblyman, later a state Senator from the East Bay, from Oakland, to try to do something legislatively. Nick did his best but the Assembly was not receptive to what he was selling.

Kay Kerr turned next to Gene McAteer who was a state Senator from San Francisco. He was an orphan and he became a star football player at Cal. He was elected to the Board of Supervisors in San Francisco and later became a Senator. He was on his way to being elected mayor until he died unexpectedly of a heart attack.

He was interested in the Bay because he had been a partner in a couple of waterfront restaurants. He knew something about fill issues. And I think he thought it wouldn't hurt his visibility if he was going to run for mayor to be involved in something new. He took on the mantle of trying to figure out what should be done.

He got the Legislature to create a study commission of which he became the chairman to try to sort out what a reasonable response might be to all the proposed filling going on. I got into this working for him on that study.

Along the way he did a lot of thinking about what might work legislatively. He was a member of the old guard that ran things in the Senate in those days. He clearly had the clout to get something through.

This was a very different time in California. The population was half what it is now. The environmental leaders of the time thought that the solution to the problems of the Bay was a moratorium on Bay filling.

Gene McAteer thought that had no chance of passage but a commission that could do some planning and have a temporary permit system to regulate filling in the interim did have a chance.

One of Kay Kerr's further accomplishments was to persuade a researcher at the Institute of Governmental Studies in Berkeley named Mel Scott to prepare a study. He coined the name Bay Conservation And Development Commission. He said what was needed was an agency to do some planning and through permit controls regulate the fill.

Along the way he analyzed the shallowness of the Bay, all the development proposals, all the values of the Bay, water quality, fish and game, its value as a port and on and on. This provided the basis for BCDC to begin planning and without this it would have been a very time-consuming effort to go back and duplicate what happily he had already done.

When the bill got drafted and adopted by the Study Commission and then went on to the Legislature, Senator McAteer took on the political fight of his legislative life. No one who was around at the time would disagree that but for him the bill would not have passed. The Commission would not exist. He took a lot of heat for what he was doing.

But, because he had a permit system and not a moratorium, he could fend off critics. He could tell everybody, if you're case is just you'll get a permit and if it isn't, you shouldn't have one. This sufficed to get the bill through.

Now the Commission has been created in law but it still doesn't really exist. The conventional wisdom at the time was; a 27 member commission won't work. It was then the largest governmental creation in the state of California except for the Metropolitan Water District: So, finding a place to have the first meeting was something of a challenge.

The Commission had three years to do its planning then the Commission would stay in existence for a year while the Legislature pondered the plan that was really a short amount of time to do all the needed work. It wouldn't have happened without Mel Scott's report. It wouldn't have happened without the Chairman who was appointed to be the first leader of the Commission, Mel Lane.

The Chairman was appointed by the then Governor, Pat Brown, father of the current and future-forever-perhaps Governor. Mel Lane was not a well-known person in the circle of people concerned about the Bay. He and his family were the Lane Publishing Company which published Sunset Magazine and books. Sunset had a huge readership and a tremendous following.

Mel had become interested in conservation issues via some of the articles that Sunset had published. He was a Republican. He was a businessman and he had environmental credentials. He was the perfect choice, at least on paper.

When he began to take hold, he was absolutely the perfect choice in every way. He was an unassuming man. His only previous governmental experience had been as the public member of The LAFCO in San Mateo County.

He was a very modest unassuming guy. He was the best presider at public hearings of anyone I've ever known. He treated everybody who appeared before the Commission as he would have liked to been treated himself. He had the remarkable skill of having everybody who testified, no matter what side of an issue they were on, go home thinking, at least, he had been paying attention and heard what they had to say.

Without him it's really hard to imagine how the Commission would have succeeded. The strong concern with a commission of any size is that it will splinter into factions and that was the prediction; it would never work, there would be this group and that group and another group and they would never agree on anything. You couldn't get a plan done and there'd be too many permits on and on and on.

This never happened and I think that is 99 percent because of Mel. He was clear that he had no political ambitions and he wasn't really interested in anybody else's. He was really interested in getting the job done and as long as you were on that track, everything was going to be great.

It was very important that the Commission go to the Legislature at the end of the planning period with as much unity as possible. If there had been a draft plan accompanied by 12 dissenting opinions that would have been the end of things in the Legislature.

It was Mel's skill that made the final adoption of the plan with the Commission almost unanimous and with no serious objections by the people who weren't entirely happy. This set the stage for the Legislature in 1969 to decide whether to continue the Commission or not.

The Legislator who led that fight was Jack Knox known to many of you as a Richmond Assemblyman. These are some of the forbearers whose legacy is now in your charge. I think they would be proud of you if you carry on their legacy. Thank you very much.

Commissioner Gioia commented: I know that Jack Knox is still alive and he was a great legislator. I wanted you to fast forward to today and offer us a couple of thoughts because clearly what brought this Commission about was this concern in the Bay Area that the health of the Bay was important to everyone. To set up an agency that had land use control instead of a city or county around the Bay was the first of its type in the country.

Fast forward to today when we're dealing with the opposite, a rising Bay and looking at how to develop an adaptation plan for sea level rise here in the Bay Area. It seems to me that we face a lot of the same challenges that we were facing in the 60's which is, how do we come together as a region around the Bay to define this as a regional issue to move beyond our parochial boundaries which is what happened in the establishment of this Commission and the Bay Plan. Any thoughts on that?

Mr. Bodovitz answered: The challenge is that we spent 50 years trying to keep the Bay from being too small and we're going to spend the next 50 trying to keep it from getting too big.

You all have a real head start because there is a Bay Commission that exists. We don't have to go through the fight to create something that can do what you all can do. If you need additional money or legislation you will have to deal with the fact that the Bay is connected to the Delta and the Delta is connected to Sacramento which is also very vulnerable to sea level rise.

What the Governor has in mind for a whole-state effort to deal with climate change I have no idea. I think you're in a position to be very influential in that. You will need to decide what resources you need and where you want to go.

Another planning effort is needed. Somebody is going to have to do a lot of things that Supervisor Sears was talking about in Mill Valley. The huge advantage of having a large Commission is that the Commission has roots in the whole Bay Area. Everybody is represented. How you go about channeling all of that I haven't any particular ideas at the moment.

Commissioner McGrath commented: I had the good fortune to work for Joe and Mel at the Coastal Commission in 1976. Between them they had all the grace in the world. Joe remains one of my most valued and treasured mentors. That grace is so important and we thank you.

Chair Wasserman continued the meeting.

b. **Next BCDC Meeting.** Before I introduce the agenda for our next meeting I want to let all of you know that we are going to have two meetings in December. Each of them will be held at the San Francisco Airport. If it is held at SFO we will give you specific directions and you will not have to go through security. Please watch your emails and think carefully about where you're going because it could be here or it could be there. Our next meeting – our second meeting in November – will be held November 20th, at the Ferry Building in San Francisco. At that meeting we will take up the following matters:

(1) We expect to hold a public hearing on a U.S. Fish and Wildlife habitat project on San Pablo Bay in Sonoma County.

(2) There will be a second public hearing and probable vote on a proposal for an office park on the Burlingame shoreline in San Mateo County.

(3) We may vote on the Blu Harbor proposal in Redwood City, San Mateo County on which we will hold a public hearing today.

(4) We also expect to have a briefing on the proposed Treasure Island Development Project in the City and County of San Francisco. Vice Chair Halsted will Chair that meeting.

c. **Ex-Parte Communications.** As you know we have changed our process slightly for reporting ex-parte communications but this is a reminder that if you have had any ex-parte communications on matters coming before the Commission that are adjudicatory or permit or enforcement in nature, you need to report them. You may do so verbally now but you absolutely need to do so in writing either previously or at this meeting. (Chair Wasserman received no comments)

We can move on to the Report of the Executive Director.

**6. Report of the Executive Director.** Executive Director Goldzband reported:

I just want to thank you all for listening to Joe. He is a font of wisdom. I think that I have learned, or re-learned, two great lessons this year from the San Francisco Giants. First, expect the unexpected. Today's meeting will be full of very interesting information and you will be required to pay careful attention to Bay policies, testimony and commentary and staff analysis on some pretty complex topics. With that being the case, I am gearing up for questions that I cannot predict. Second, I continue to believe in redemption. We make mistakes on Monday, work hard and learn from them so that by week's end we both don't repeat them and can take advantage of circumstances that come our way. During this meeting you will hear about projects from which we can all learn something so that we can do our work better in the future.

Maybe that's why I love Bart Giamatti's great description of baseball and learning. He said, "Baseball is designed to break your heart. The game begins in the spring when everything else begins again and it blossoms in the summer filling the afternoons and evenings, and then as soon as the chill rains come, it stops - and leaves you to face the fall all alone. You count on it, rely on it to buffer the passage of time, to keep the memory of sunshine and high skies alive, and then just when the days are all twilight, when you need it most, it stops."

The Department of Finance told us almost two weeks ago that we have a new budget analyst but that our former analyst would continue working on our budget building components. I am taking that as a positive sign and therefore maybe in the next month or so we'll have some good news about the budget.

Speaking of the unexpected, BCDC has made the switch from our former e-mail system to the state's umbrella email system. If you sent one of us an e-mail in October and never got a response, well we can say that it was lost in the switch. So please let us know if that is the case and we will get back to you ASAP.

We have one budget matter for which I seek your approval. In an ongoing effort to seek out and use the best professional tools available, BCDC staff would like to purchase a subscription to an online search engine called Real Quest. This property database tool will help our regulatory program ensure that permit applicants actually hold title to the real estate that they are proposing for development. In addition, our enforcement staff will be able to determine immediately who owns a property in question. The annual cost of this service is \$2,000. Unless you direct me otherwise, we will enter into this contract immediately and move our regulatory program into the mid-20th century.

At 11:00 this morning the Commissioner Working Group on Rising Sea Level met to hear from Fred Silva of California Forward. Fred is a long-time Capitol staffer who this past year headed the push to reinvent what used to be known as “redevelopment” through the passage of SB 628 signed by the Governor. This legislation now enables multiple public agencies and governments to join together to issue long-term fixed income securities to fund a wide variety of infrastructure projects. In addition, the newly created Bay Fills Policy Working Group, to be chaired by Barry Nelson, will hold its first meeting at 11:00 prior to our next BCDC Commission meeting here in this room. It will be an organizational meeting for the most part along with a briefing from staff on current Bay fill policies. We are now ensuring that those meetings are noticed in our agendas and in our meeting notices and so on.

I want to let you know that, once again, we are endeavoring to get the approval of the Coastal Conservancy, Bay Planning Coalition, the Bay Institute and Save the Bay on an advocacy strategy to fully fund the US Army Corps of Engineers dredging and beneficial reuse program under their new authorizing legislation. We have a draft letter that we are working on that will soon be vetted by David Lewis of Save the Bay and Marc Holmes of the Bay Institute along with John Coleman and Sam Schuchat. As soon as it is finalized we shall distribute it to the Commission. John and I shall be in Washington, D.C. in about 10 days for two full days of advocacy. Sam will follow us in D.C. in January and then Steve Goldbeck and I will be in Washington in March along with Charles Lester of the Coastal Commission for our annual coastal zone managers meeting during which we shall also lobby on behalf of our team of organizations and agencies.

I do have two more things to say. First of all in your packet is a picture of the way finding program of the Port of San Francisco which has been terribly successful. There you see a picture of the three women that hangs in the BCDC offices. This is something that we can be very proud of. The second thing that is in your packet is an article about BCDC that also talks about a permitted development called, Brooklyn Basin and talks about the discussions that are occurring among BCDC, the Corps of Engineers and the Water Board. I urge you all to take a look at that. Now, as Finally, never let it be said that shame does not work. You will remember that a couple of months ago we had a long list yay long of Commissioners that had not fulfilled the requirements for their ethics requirements. That list has now been reduced to one line and two names, neither of whom is here today.

Chair Wasserman added: I’m actually going to defer and let Anne Halsted shame them when they are here. We will give them fair warning. Do we have any questions of the Executive Director?

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Commissioner Nelson commented: The Brooklyn Basin article suggests that one of our permit conditions with regard to habitat restoration may not be implementable. I wanted to ask for a comment in whether staff will come back to us with more information.

Executive Director Goldzband replied: Staff will come back to you with more information. Essentially, what this has demonstrated to us is that we need to make sure that we have agreements before we do permits rather than agreements post permits. This is one of those times where it looks to BCDC that the good government process that we try to follow simply is off the tracks. That is why we're working hard with the Corps and the Water Board to try to figure out the solution.

Chair Wasserman announced: There are no administrative matters that staff has had to act on that require our review.

7. **Consideration of Administrative Matters.** There were no listings on administrative matters.

8. **Commission Consideration of a Contract to Hire Three Climate Corps Members.** Chair Wasserman continued: That brings us to Item 8 which is Commission consideration of a contract to hire three climate corps members. Joe LaClair will make the staff presentation.

Chief Planner LaClair presented the following: The staff recommends that the Commission authorize the Executive Director to enter into a contract for \$73,500.00 with the Local Government Commission that would provide funding to the Local Government Commission to provide the Commission with three Civic Spark Members to work with BCDC on projects to address adapting to rising sea level. The Civic Spark Members would work with the Commission for a year from November 2014 to October of next year. In addition, we're asking that you authorize the Executive Director to enter into a contract where the Commission could receive up to 8,400 for its role as a regional host whereby the Commission would host the members that would work with us and local governments as well as an additional member who will be working, at this point it's planned that person will be working with Santa Clara County on greenhouse gas inventories and emission reduction strategies. We also ask that you authorize the Director to amend the contract as necessary as long as there were no substantial change in amount or what work would be done. The Civic Spark Program is the California extension of the AmeriCorp Program that was created back in the 90's by Senator Kennedy and President Clinton. The program is a statewide program administered by the Local Government Commission to provide young professionals opportunities to work with local governments and regional governments to try and advance protection against the impacts of climate change as well as efforts to reduce the emissions that are causing it. We have three of the four Civic Spark Members here today who would be housed at BCDC, Hannah Cha, Jimmy Zhang and Jon Kwan and the fourth member who is not here today is Alima Kamara. We are asking that you authorize the Executive Director to make this contract.

Chair Wasserman continued: Any questions for Joe? (He received no inquiries)

**MOTION:** Commissioner Zwissler moved approval of the staff recommendation, seconded by Commissioner Nelson. The motion passed by a voice vote with no abstentions or opposition.

Chair Wasserman moved to Item 9.

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**9. Commissioner Briefing on the Middle Harbor Enhancement Project by the U.S. Army Corps of Engineers and the Port of Oakland, in the City of Oakland, Alameda County; BCDC Consistency Determination No. C2000.014.00 and Permit No. 2000.014.00.** Chair Wasserman announced: Item 9 is a briefing on the Middle Harbor Enhancement Area by the U.S. Army Corps of engineers and the Port of Oakland. Brenda Goeden will introduce the topic.

Ms. Goeden addressed the Commission: Today we are joined by staff from the U.S. Army Corps of Engineers and the Port of Oakland to give you a presentation on the status of the Middle Harbor Enhancement Project located in the Port of Oakland. I will follow their presentation with a, "Lessons Learned To Date" about the project from BCDC's perspective. There is no action needed today by the Commission.

Mr. Al Paniccia addressed the Commission: I am a project manager with the Army Corps of Engineers in San Francisco. I am also the project manager for the Oakland 50 Foot Deepening Project which includes the Middle Harbor Enhancement Area construction feature of that project.

The Middle Harbor Enhancement Project has been a long time in the making. We are making progress.

I'd like to emphasize the fact that both the Port of Oakland and the Corps of Engineers remains committed to completing the Middle Harbor as originally envisioned in the design documents that have been approved by the Technical Advisory Committee members.

Finally, we are really excited about the prospects for this year because the FY '15 President's Budget has allocated six million dollars to the Oakland 50 Foot Deepening Project and that money is specifically going to be used to further construction needs at the Middle Harbor. This would fund the final grading work that needs to be done, moving sand and material to the proper locations in the Middle Harbor.

We are going to talk about the purpose of the project, provide you with status of the project, what work needs to be completed and I will update you on the budget situation and future next steps.

With me today I have Anne Whittington. She is the Environmental Supervisor at the Port of Oakland. She is going to provide some remarks on the project from the Port's perspective. And after her we have Eric Jolliffe. He is the Environmental Manager from the Corps. He will talk about the design elements and status of the habitat creation, what work has been done so far and what work needs to be done in the future. He has a lot of knowledge on the project. He has been involved with it since the beginning.

And finally, I'm going to talk about the budget and future status of the project as the Project Manager.

I would like to invite Anne up to the podium to speak for the Port of Oakland.

Ms. Whittington spoke before the Commission: I am the Environmental Supervisor at the Port of Oakland for the maritime activities. I have worked closely with BCDC staff over the years.

The reason why Middle Harbor Enhancement Area was built was in support of our 50 Foot Channel Deepening Project. The Port of Oakland is the fifth largest container port in the United States which means we handle almost entirely cargo that is shipped in 20 or 40 foot long containers and placed onto and taken off ships by crane and then is either trucked or taken by rail to the final destination.

Around 1999, two very important things happened. One was the Oakland Naval Supply Center which was closed and the land reverted to the Port. The upland area became a marine terminal. The water area where the Navy ships used to dock was returned to the Port for whatever purposes we wanted.

At the same time, container ships crossing the Pacific and calling at Oakland and other ports started becoming larger. They became longer, wider and they required more depth of water.

When I started working at the Port in 1987 we were working on our 38 Foot Channel Deepening Project. That turned into the 42 Foot Project, and finally, the 50 Foot Project.

The issue with the 50 Foot Project was that we needed to dredge approximately 14 million cubic yards of material. The issue becomes, where do you put this? Much of it was mud. Much of it was sand. Nearly all of it was clean. About one percent was contaminated.

At the same time, the Long Term Management Strategy for Placement of Dredged Material in San Francisco Bay Region was being undertaken. The concept of re-using material for beneficial purposes was introduced. My boss at the time, Jim McGrath, was involved in that project as well as being part of the group that was deciding where material would go.

In the end, 92 percent of that 14 million cubic yards of material went to beneficial re-use projects. Of that, 36 percent went to the Middle Harbor Enhancement Area and 36 percent went to the Hamilton Wetlands Restoration Project and almost 20 percent went to Montezuma Wetlands Restoration Project. That was a phenomenal accomplishment.

The Middle Harbor Enhancement Area Project was a real win/win situation. The area in the mouth of the Harbor was shallow water habitat ranging from about one to thirteen feet below sea level. It supported the types of species and habitat that you would find in shallow water areas, fish nursery and so forth. By the time that Middle Harbor Area was passed on to the Port of Oakland in '93 it looked like the slide in front of you. It was deepened, and is shown here with two large hospital ships docked in the area.

The question was, what do you do with the water in the middle of the Harbor? Staff had the great idea of putting clean dredged material in there and restoring this to a shallow water habitat that it was before the Navy took it over for World War II and save money.

This would allow us to meet our goals of beneficial re-use. We will meet our goals of minimal costs. This will enable us to send dredged material to Hamilton and Montezuma for beneficial re-use. In other words, it was a great idea.

There are now five million or so cubic yards of material in there. It is a functioning shallow water habitat. The project is not complete. The Corps has been working on this project and one of the issues that has occurred is that the material settles and settles. There is a lot of weight in there. It has been settling and there has been a need to go in and do sculpting and we are not yet at the stage of planting eelgrass to return this area to the habitat that it was before the War.

Mr. Eric Jolliffe spoke: The purpose of the whole thing was to restore 181 acres of shallow-water habitat to primarily eelgrass. I think the total dredged material was about 6.1 million cubic yards.

A large retaining wall with rock on top of it was built to contain the dredged material. This material was loosely-consolidated stuff. There was a lot of uncertainty on what the final elevations would be.

One benefit of the delay is to allow this material to settle and have a little bit more certainty on what is going to happen in the end. Things have stabilized quite a bit.

We have a 10 year performance evaluation period that is going to start once we're finished constructing the site. This will involve monitoring of vegetation, eelgrass establishment and fish and bird use.

The design is basically a large plain with channels that allow the water to drain off and flow through the two openings.

In the far southeast corner of the site there will be a five acre demonstration marsh constructed. As we harvest the rock from the top of the retaining walls we will create bird islands, some roosting islands.

Recently we've moved 400,000 yards of the material. As the material was consolidating we realized that there was a lot more mud in there than we had anticipated. We're moving the material around to keep the sand on top. There is another 400,000 left to shape and to complete the initial shaping of the site before we go to our year of validation monitoring of the hydrodynamic model that we have assumed in constructing the site. Once that is verified we would come in and harvest the eelgrass.

The current plan is to harvest eelgrass from Bay Farm Island and from Crown Beach. That was approved by Fish and Game at the time.

We are going to go back in and move the muds into the lower areas. There is a basin that is designed to trap mud. Currently the sand and mud is exposed at low tide and becomes two to three feet deep at high tide. It's probably a pretty productive area for top smelt, jack smelt and good for the least terns that are nearby. There is a direct correlation between water depth and the presence of the smaller life stages of jack smelt and top smelt are present all year long.

In the meantime, it's habitat for a variety of birds other than just least Terns. It does have some value in the interim as shallow subtidal habitat and at low tide as roosting habitat for shorebirds.

Commissioner McGrath had a question: This is information I had not heard. Did you quantify how much more mud went into the Middle Harbor than was originally anticipated?

Mr. Jolliffe answered: It's about 50 percent.

Commissioner McGrath continued: You said that you've already covered some of the mud with 400,000 cubic yards of dredged from the site and to finish the fill with sandy material you're going to get it from near Bay Farm Island. Is that correct?

Mr. Jolliffe replied: No, no, that's not correct. We're relocating material from onsite. We're not leaving the site. The Bay Farm was going to be the donor site for the eelgrass.

Commissioner McGrath continued the conversation: So you have ample sandy material at the site for another 400,000 cubic yards.

Mr. Jolliffe responded: That's correct, 400,000 cubic yards.

Mr. Paniccia spoke: Regarding the budget situation, the estimated cost to construct the entire Middle Harbor Project is about 66.8 million dollars and that goes back to the beginning of the project including the design and engineering work that went into it. It also includes an element of the dredging and transporting to the Middle Harbor from the Deepening Project. I included that dredging cost in the cost of construct to give you an idea of what it would have taken to construct the Middle Harbor on its own if it did not have a Deepening Project sitting right next door. So if you wanted to create another Middle Harbor, set aside 70 million dollars.

We've spent about 57.3 million dollars and this is cost shared with the Port of Oakland. We have 9.5 million dollars to go to finish the project.

For the FY '14 Work Plan we only received 100,000 dollars. We haven't had a steady funding stream over the last couple of years. We've been able to get back on track with the funding situation by the fact that we have six million dollars now in the President's Budget and that is also in the House Report. We expect it to make it into the Appropriations Bill for 2015. We don't know when that's actually going to pass Congress and get signed by the President. We don't expect to see the actual money until March or April of 2015.

Following the six million, the future funding to complete is 3.4 million. The six million dollars is going to go towards the final grading work which is relocating and sculpting the 400,000 cubic yards of sand. It will also be used to do a bathymetric survey before we can do the grading so we know exactly what the elevations are. And then we are going to construct the bird roosting islands, marsh fill and deconstruct each jetty by lowering it to a lower elevation to allow tidal circulation.

We will also be consulting with the TAC (technical advisory committee) this year to make sure that we are on the right track. We will plant eelgrass after there has been settling and the hydrodynamic modelling shows it's flowing the way we want it to. This will be at least one year away.

And then there is 10 years of monitoring, management and maintenance in accordance with the "3M Plan".

Again, for 2015 it's the grading, constructing bird islands, lowering the east jetty, updating the TAC Committee and then also this year we are going to consult with the eelgrass habitat experts to have them take a look at the design one final time to make sure the elevations that we're shooting for are still good science and good for the eelgrass habitat.

Following that, we will do the hydrodynamic modeling to verify performance. We will plant the eelgrass in 2016/2017 and then monitor for 10 years. This concludes the Corps' and Port's briefs. Brenda is going to speak to us now.

Executive Director Goldzband commented: Before Brenda comes up, you're probably now saying, okay, this looks like a really interesting project; why are we talking about this?

You will remember that a few years ago Save the Bay wrote a letter to the Commission with fundamental questions about Middle Harbor. We have worked through some of those and worked with the Corps and the Port to make sure that we understand what's going on. After a series of conversations with at least two Commissioners and a couple of people outside of BCDC, I said, we need to sort of think about long term, what we learned from this. The next presentation you will find really interesting because this is an example of how our staff looks back to see what we've done and try to figure out what we've done, what we've done well and what we can do better. This is what Brenda is now going to talk about.

Ms. Goeden presented the following: We've looked at some aerial drawings and photographs of the site here is a graphic of the cross section. The site was approximately 35 feet deep which is really, really deep. It also took a pretty large amount of dredged material, about 5.8 cubic yards from the Middle Harbor Deepening Project to fill it. That was all hydraulically dredged. It was slurried up and pumped through a pipe. It was really loose sediment. Consolidation of the dredged material is a very important consideration for the project design.

When the project was originally designed the idea would be that the lower level would be sand which consolidates quicker and is a heavier substance and not quite as movable as mud. That did not happen due to some of the needs of the Port to dredge different areas at different times. We ended up with a primarily mud base. More time was needed to get that area to consolidate.

As we look at the project from the Commission staff's perspective, as it was authorized it was a multi-benefit project. The driver was the 50 foot Deepening Project and we could not have done the enhancement area, or Hamilton or Montezuma Wetlands without this amount of dredged material. The Middle Harbor Enhancement Area did provide some costs savings that were significant enough to allow transport of dredged material both to Hamilton and to Montezuma.

When you look at the 50 Foot Deepening Project it provided some habitat benefits as well as some economic benefits to the Bay Area.

We had to go through a Bay Plan Amendment to allow the Middle Harbor Project to move forward. There was a Phase I and a Phase II consistency determination that was done for this project which is highly unusual in BCDC's work.

Phase I was more of a conceptual consistency determination issued in 1998. This was followed with a more detailed consistency determination which included the authorization for in-Bay placement at Middle Harbor after the Bay Plan was amended to include provisions that related directly to Middle Harbor and this is Dredging Policy 11.

In addition, we had to authorize the Port of Oakland work as well. The Port of Oakland because it is a project sponsor, the Army Corps of Engineers partners with a local sponsor when they do projects; also has a permit from BCDC for this project. The main focus in their permit is monitoring the Middle Harbor. The Army Corps does the construction and the Port of Oakland does the monitoring once the project is complete.

There are a number of smaller permits for berths that also came through the Commission because as the channel was deepened several berths within the Port needed to be deepened as well.

As we look back at this project we recognize that it is not complete. When we do consistency determinations projects are considered to be consistent to the “maximum extent practicable” with the Bay Plan under federal law. We are using the Coastal Zone Management Act rather than the McAteer-Petris Act.

When we do permits, under state law they have to be fully consistent. It’s a little bit of a different standard. We do work very closely with our partners at the Corps to make sure that we are consistent to the maximum extent practicable.

In 2000, we were not allowed by federal law to include special conditions. When you look at recommendations from staff on permits you see a number of special conditions that modify the project per the Commission’s laws and policies. We could not impose conditions on the federal government in 2000 when this project came through. Therefore, consistency determination does not have special conditions in it.

In 2003 the project was underway and the Coastal Zone Management Act was amended. Now, when we bring consistency determinations to you we bring to you recommendations for conditional concurrence most of the time. So these special conditions modify the federal project.

The Corps has the opportunity to accept the Commission’s conditions or object. If they object then we have a process to go through and work with them to reach agreement.

We continue to collaborate with the Army Corps of Engineers on consistency determinations and work very closely with them on a project basis.

When projects are primarily federally funded, it’s a risky business. Projects get funding on an annual basis dependent on federal priorities.

This project was done through an authorization and then appropriations through Congress. This is a little bit different than some of the projects that we see that fall under the Anti-Deficiency Act where the federal government cannot commit to funds in the future.

We have been working on this project now for 14 years. We have to continue to compete with national interests for funding. Sometimes we get more funds and sometimes we get less funds. Sometimes the funding doesn't work real well with contracting. The project gets funded late in the year and contracts have to let before the federal year ends and that sometimes complicates things and causes delays.

Sometimes there are accounting issues. There was a year spent trying to figure out if we busted the 902 Limit. We legally have to keep the budget below the 902 Limit, a federal requirements.

There were also regular construction delays.

There is a cost sharing aspect to this project. The Corps comes to the table not only as a project sponsor, a contractor, a builder and they also provide federal funds. We need to consider whether the federal funding that is offered is worth potential delays. We have to consider this as projects progress because inevitably on large projects we do see delays, sometimes specifically due to funding. This is a balancing act that we have to look at and consider.

When a project is very important to the Bay we need to continue to advocate in Washington for the project.

Monitoring needs to happen. The question could be asked as to when does monitoring need to happen which is a fair question. Currently the project is authorized to have monitoring done at the end of the project.

The monitoring that is required by the Port of Oakland is for the habitat monitoring to make sure the eelgrass is growing, the water hydrology is doing what it is planned to do and that we have good critters living in that area. In the interim, staff is reviewing geotechnical reports. We are looking at project design and doing plan reviews and working with our partners to make sure that things are continuing to happen.

You may have monitoring at the end but staff needs to continue to work with the partners to move projects forward, which is another type of monitoring. We continue to do this work even when there are delays.

We have some technical lessons that we've learned from this project that we can apply to other projects. We really thought at the beginning of the project that it was necessary to put sand on the bottom and mud on the top. It may not be as necessary to do that as we thought, but when we do that sort of thing we need to think about the time it may take for additional consolidations. I consider this a technical lesson learned.

We've learned that you can actually sculpt material hydraulically in the water. We weren't really sure that material placed in this manner would stay in place. What we learned was that this is possible and the material does seem to stay in place in this kind of setting.



In the last 12 years eelgrass restoration has advanced in the Bay Area. In previous staff documents there is significant discussion about the staff not being sure if eelgrass restoration will work. We've learned that it is indeed possible but still not a perfect science. We have been reducing the amount of fill that we're putting in the Bay when planting eelgrass. We have had improvements in, eelgrass restoration plans in the time this project has taken to move forward.

The aspect of ownership of the project is an interesting one. Who does own this project? Primarily the sponsors own the project, they propose it, they're paying for it and they're building it. It is their responsibility.

But the Technical Advisory Committee is another group who has committed their time and energy to the Middle Harbor Project. Perhaps more meetings with the TAC would be helpful because we haven't had a lot of communication with them. They are also owners of the project.

As owners of the project we need to communicate regularly with people about what is happening. This hasn't happened to the extent that it should have. We need to continue to do regular updates to the Commission, to the public and make sure that folks understand where the project is and what the next steps are.

Lastly, when we do a Bay Plan Amendment we're making a contract with the community. It is important to follow through with the Bay Plan requirements as they are contract with the community.

Dredging Policy 11 is a challenging and interesting policy for the Bay Area to deal with if you want to use dredged materials in the future to build habitat in the Bay. It lays out the monitoring that needs to be done, the analysis of the project area, scientific studies, success of the project, the minimum amount of fill and it needs to be very seriously considered.

One of the things that this policy says is, you won't do this again unless it's a minor amount of fill or until Middle Harbor is a success. We need Middle Harbor to be a success if we intend on doing these types of projects in the future.

The Port and the Corps are very committed to this. We are looking forward to the next several years of seeing what happens with Middle Harbor.

In a few weeks you will be hearing the Sonoma Creek Project. Policy 11 does apply to that project.

In addition, it has been suggested and we are working on a Commissioners Bay Fill Policies Working group similar to the sea level rise working group. This will be coming late winter or early spring if not sooner.

Chair Wasserman spoke: I suspect that there are some questions. My preference would be to hear the public comment first and then we'll have Commissioner questions. We have two speakers on this topic.

Mr. David Lewis addressed the Commission: I am Executive Director of Save the Bay. I am encouraged to see a presentation that includes lessons learned. I have to say that I don't take much gratification that this is happening only now in response to a set of concerns that I have raised over a long period of time.

It's been 14 years since the Commission approved this project in several phases. The crucial habitat for fish and wildlife that was promised as part of the project at Middle Harbor was required to have been created years ago. It was not optional and it was not contingent on available funding.

It's appropriate to try and fix the project as soon as possible and get those benefits. I'd like to focus on more on the Commission's approach and some other lessons that can be learned.

At the time the project could not be approved under the Commission's regulations. Under very heavy lobbying from the Port of Oakland and others in the community, BCDC amended its Bay Plan to allow what was basically a massive demonstration project.

It does have the other virtues and benefits that the staff explained but it also is a huge science experiment in the Bay which has not yet been proven to work.

Save the Bay is not involved in trying to grow eelgrass. We've never been involved in trying to grow eelgrass. It mostly has not been done successfully in San Francisco Bay.

What I am most concerned about is not only that this project has been significantly delayed without more intervention by BCDC earlier but it's some of the bigger questions that this kind of approach raises. It's very important for you to address as you try to shape the effectiveness of the Commission moving forward.

How did BCDC allow this project to achieve so little and less than what was promised for so long? Without the Commission's review and involvement and action how could the largest fill project in the Bay in years be publicly ignored by BCDC if staff work was going on in the background until Save the Bay and others raised questions about it a few years ago and again more recently?

Was this project handled differently because it involves public agencies instead of private landowners? Were the Port and the Corps getting a pass or different treatment not only because it was a consistency determination rather than a permit but because they're public agencies or for some other reason?

Why didn't the staff and the Commission monitor the Port and the Corps' progress? And if it didn't have enforceable conditions in the consistency determination move to create, pressure or strengthen its ability to shape what was going on. Far more effort was spent on far smaller projects with arguably smaller consequences, opportunities or benefits during that same period of time.

Now with the required benefits being delayed for so long, why isn't BCDC looking to acquire more habitat than was originally specified to make up for a period of time that the environment has not been enjoying those benefits?

What about BCDC's project approval process, monitoring and enforcement needs to be changed to have something like this not happen again in the future?

The uncertainties that Brenda talked about, do those need to be disclosed at the outset so you can decide whether the uncertainties involved in the project make it worth going ahead with or require some additional conditions?

What do Commissioners need to do differently to make sure that staff is reporting on progress of key permits, huge projects like this, or lack of progress on those instead of remaining silent?

During the last decade BCDC got quarterly updates on your progress on your strategic plan, even when there was no significant progress on the plan. That was not done on this project.

Was there a fear of delivering bad news? Perhaps this was because some of this is bad news. Was there censorship? Was there indifference? Maybe there was a feeling that the Commissioners wouldn't be that interested. I don't know.

The Commission should be asking the staff to make apparent the work that is going on behind the scenes if there is that kind of work.

And the final set of questions is really, why hasn't there been more of an effort on the part of Commissioners and the staff to ask these questions about lessons learned? The failures should have been evaluated and lessons drawn and applied to make changes in the way things are done in the future. I'm glad to see the beginnings of that happening now but it shouldn't have taken so long.

That kind of approach is a huge strain for an organization, a public agency or a private organization; to ask questions, to examine what is not working and to be public about it.

The transparency and availability to the public of what this Commission does and how it usually works stands out from other government bodies. I would like it to do so even when things aren't going as planned.

The opposite approach, treating a failure casually or with silence or indifference for too long really hurts BCDC's credibility and it undermines your ability to do the difficult things that you're going to have to do in the next few years.

It undermines the permit regime which is one of the things that your new Executive Director came in establishing as a top priority when he started.

Everything that I have said to you I've said to the Executive Director and to staff for many years. Clearly, it hasn't really had the desired impact and thus I'm saying it again to you today.

I want to stress that BCDC's credibility and integrity are really a top priority for Save the Bay. With new sea level rise policies or trying to figure out where it's okay to place fill for habitat restoration, I think all those things are more difficult because of the way this project at Middle Harbor has proceeded and because it's still unfinished.

I hope you'll insist on asking these kinds of questions not just around this project but about the way BCDC can do business. I hope you'll encourage the Executive Director to adopt that sort of culture of examination and self-criticism and improvement. Nobody is interested in punishment or

consequences for misdeeds. That is not what this is about. I'm not accusing anybody of intentionally try to hide the ball. I just think that in addition to creating the habitat that is very important for the Bay that was promised in this project, you have an opportunity to take from this particular example some ways of making the Commission stronger and more effective in the future, thanks.

Chair Wasserman continued the public hearing: Our second speaker is Will Travis.

Mr. Travis addressed the Commission and attendees: I am delighted that you had a chance to hear from Joe Bodovitz today. Joe said to me once, Trav you have to understand that government in the Bay Area is more like repertoire theatre; it's the same cast just playing different roles all the time. When this project came through, the role of Executive Director was one that I was playing. Jim McGrath was playing the project advocate. Jim came to our staff with this crazy idea of filling San Francisco Bay to make it better.

After some interesting discussion we started to look at the potential benefits of this idea. Every time we found a problem we would go back to Jim and he would help us craft language, either in the policies or the permit, to assure that anything we imagined that would go wrong ultimately couldn't go wrong because there were mechanisms in there.

We engaged with Save the Bay and they added much more to this.

This project serves as a good model, a prototype, that you can rely on as you're looking at your Bay fill policies to deal with sea level rise. You're going to be dealing with challenges you hadn't thought of and the blanket prohibition of filling the Bay even when it's for a very good reason is ill advised.

Listening to David today it sounds like this project is just an abject failure. It is not. It is a work in progress. The standards are so high that given the constraints of budgeting, time and a whole variety of other things, it will be very, very hard to meet.

I think also as you go ahead with your Bay Plan Policy Amendment to look at sea level rise, you should keep this lesson in mind. It's a classic example of letting the perfect get in the way of the good.

The standards for this are so high and there are so many unanticipated things from Congressional funding to a whole variety of things, that you can make policies that are so stringent that they prevent things from happening.

I think taking the lessons from this project, the approach that was used and the way you embody your objectives in policies that are actually workable is something that would be of great benefit to you as you look at the Bay Plan Policy Amendments or Bay Plan Working Group to deal with sea level rise. Thank you for your time.

Chair Wasserman commented: There are no other public speakers and we can start with questions from the Commission. The Chair recognized Commissioner Nelson.

Commissioner Nelson spoke: This is a really important project for two reasons. First, this is by far the largest fill project in the Bay that BCDL has authorized for habitat restoration purposes. And second, as Brenda mentioned, the way the approval was written it essentially says, we're not doing this again until we show that we can do it right. That latter one is critical.

It was mentioned that we are beginning a Bay Fill Working Group. I think it's going to be very important in that process for us to think about creative ways to use dredged material in ways that we haven't use it in the past.

This project could either be an obstacle to those projects or a guide for those projects. It's really going to be critical that we get it right.

I wanted to make sure that I understood the timeline of the project right. One of the slides suggested that fill placement was completed and that the dredging and fill placement was done between 2002 and 2007, do I have that right?

Ms. Goeden responded: Yes. The dredging was supposed to start in 2000. This was delayed two years. The entire dredging project was complete in 2010. The last bit of dredge material went to Hamilton in January of 2010. Placement at Middle Harbor was complete in 2007.

Commissioner Nelson further commented: I understand delays in the federal budget and we have no control over that. We have projects that are delayed for a variety of reasons. This is understandable. It does trouble me that the initial fill placement of the Harbor Deepening Project happened seven years ago; sometime for consolidation makes sense, but it troubles me that it has taken so long to get from the Harbor Deepening Project and the fill placement to the habitat restoration benefits as described.

Travis is right. The Port and the Corps set a high bar by aiming for eelgrass restoration. It's not an easy one. Nevertheless, that is the project that was designed and the project that we approved.

With that in mind, a couple of questions come up. One is, as we look forward to grading the project to make sure that we have the right elevations, do we have the right substrate for eelgrass?

The second question is, what does it take for us to track this project on an ongoing basis so that we're learning from it on an ongoing basis as we think about other potential reuse opportunities. This may be more regular reports to the Commission. Maybe this isn't the only project we should be thinking about; a question there for staff. As we look forward to other potential re-use projects, how do we make sure that we are learning from this and keeping this project on track?

Ms. Goeden answered: I do believe we do have the appropriate substrate because we're using sand for the top layer. There have been a couple of technical reports that have been provided to staff from the Corps and the Port that provide geotechnical analysis which includes the consolidation confirmation but also there was an interim report that talked about the intention to place sand at the bottom and then fill the rest with mud and then come back and put sand on the top. The design was modified in this interim report, a decision was made to use mostly mud however, sand remains on site and available for final shaping.

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We did have a significant number of staff come and go during the implementation of this project. The person who wrote this permit left and my team ended up with it. We not only had this project to deal with but also the Hamilton Project and monitoring the 50 Foot Deepening Project. We had many things happening at once and not a lot of information coming in on Middle Harbor for a couple of years.

Starting in 2007 we were waiting for information. We were waiting for confirmation from the geotechnical report, including the sediment has settled, and that we could move on to the next phase.

When you're actively working on a number of different projects the waiting phase sometimes gets a little away from you. Some of the lessons learned here are that if we were to revisit the consistency determination today we would probably ask for annual reports and identification of pieces of the project that have potential to cause delay and some potential solutions and build that into the consistency determination. So at least on an annual basis we are getting an active check-in.

I also think that as things change perhaps we should have gotten the Technical Advisory Committee (TAC) together a couple more times than we have.

Meeting with the Technical Advisory Committee every couple of years or at certain milestones reports back to the Commission would be useful on a multi-year project like this one.

We have similar situations with Hamilton and with some of the larger restoration projects like the Napa Restoration Project, South Bay Salt Ponds, these projects have periodic check-ins.

As we have done more of these large, multi-year projects we have built in more conditions with reporting periods but also the project proponents themselves have let us know when they have a need to check-ins. This is really nice to have that ongoing information to adaptively manage our projects.

With adaptive management coming to the forefront in a lot of the Bay Area projects, we see people getting together and thinking about how to move forward on the next steps. If we did this project today we would probably do something along the lines of adaptive management.

Executive Director Goldzband commented: I think that is a fine answer and I would add one thing. From my perspective as a manager, one of the things that I am looking for is, how do you ensure predictability throughout a process? You can do it through making sure you include the owners. You can do it through making sure you know what the conditions are. You use expertise internally and externally to guide you.

From my perspective, the thing that has not been going on, has been consistent and regular check-ins and regular questioning that leads you down a path to get the knowledge that you need.

Not only did staff change on this project but the project has been settling. When the project settles, the project settles and so you move to something else.

From a managerial perspective the whole idea of ensuring consistency and regularity with regard to what you are looking for, how you are looking for it and the kinds of things that you are actually trying to answer is incredibly important.

Commissioner Zwissler had questions: Two questions. When we grant a permit do we have a policy that says that we have a certainty of funding for the completion of the project? And then number two, I'm concerned about this issue of monitoring and timeline and that future projects are conditional on the success of this project. If it's not done yet and we have a 10 year monitoring process, does that mean that we're not going to consider another project for another unknown period of time?

Executive Director Goldzband addressed the first question: Remember for this project it was before you could condition the consistency determination. There are no conditions at all on this.

Commissioner Zwissler added: Mr. Lewis raised the point that this was unconditional and therefore it wasn't conditional on funding. How can we have certainty on funding in a future project?

Chief Deputy Director Goldbeck responded: You cannot because we couldn't condition anything on this and also we can't require the U.S. Congress to appropriate funds for a project like this.

What we typically do now for permits not for the federal government, if there's a mitigation requirement we will make sure that they have the ability to implement the mitigation requirement.

We have ways to enforce that if that doesn't happen. We tend to focus on that. It's a little different thing when you have an authorization to do something and they decide not to do the whole project. Obviously this is a problem when you're placing fill and if you don't follow through with your project then your permits say that the applicant has to either remove that fill or get new amended approval for a new project that will be consistent with your policies.

Ms. Goeden responded to the second question: In regard to the success of this project and whether we can authorize anything else until it's proven a success given that there is probably four more years of getting it built and the eelgrass planted and then 10 years of monitoring; there is success criteria.

There is a plan which I have right here. It is the construction period, the long-term monitoring, maintenance and adaptive management plan for this project. In this plan there is construction criteria, monitoring criteria and it's qualitative rather than quantitative. It describes what success would be for the eelgrass habitat. It links to coverage of the eelgrass and fish and bird using it.

This document is what both the Port and the Corps are committed to follow.

Regarding future projects, the way the policy is written the first half of it lays out a significant description of projects specifically using dredged material for habitat. It lays out the studies that you need to do, the analysis that you need to do before you even consider it. You have to look at the project on its own merits to decide whether it's an appropriate project.

Then there is a section that talks about the studies that need to be done for that project to make sure that it is successful.

The piece regarding whether or not we can do it in the future; there's three different pieces.

One is, that a minor amount of dredged material being placed. You must determine what is minor for the project and the policy leaves room for Commission discretion.

If you decide that it is a minor project then you could approve it if it meets all the other policy requirements. If it's not minor you would move to, is Middle Harbor a success. This could be potentially 16 years in the future. Perhaps the monitoring might show that it's successful before that but we won't know until we're done building and start monitoring.

What the policy allows now is minor use of dredged material for habitat enhancement or restoration. What the Commission has to determine is whether or not the project has a minor amount of dredged material.

In the Sonoma Creek Project the question will come to the Commission as to whether or not that project on its own merits is considered a minor amount of dredged material for habitat benefit.

Commissioner Zwissler stated a perceptual understanding: Let me tell you what I just heard. I just heard that there could not be a major project until there is a finding of success.

Ms. Goeden agreed: That is what it appears to say to me, yes.

Chair Wasserman added: Unless we change the policy.

Chief Deputy Director Goldbeck clarified a point: The policy doesn't say that you have to have 10 years of monitoring or whatever the Corps established. It is in your discretion to determine when you decide that it is a success or not. That is up to you.

Commissioner Gioia commented: I want to raise a couple of points. I was on the Commission when this project was approved. The thing to think about here is when we know that some projects have mitigation, which we know will have some higher risks associated with making them successful, we should think about creating a plan to ensure that we're checking periodically in a particular way.

The simple projects where we approve some development and require public access, we check to make sure that the public access is built according to a time schedule. We require the public access at the time the project is built or on an established timeframe after that. We're able to check in on that.

On a project like this which is more complex, how we think about how we are going to follow through according to some time schedule is important. I'm not saying that there wasn't some follow through early on but as this went on it was less than rigorous. How we set up a process to ensure that we are doing that to ensure that a project is being implemented successfully is important. This is something that we can talk about for projects going forward. There is a lot of

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attention on this project now so I am more confident that this will occur but that on other projects where there are greater risks that we build into the permit some details about how we follow through on the oversight.

Commissioner Bates spoke: I appreciate what John just said. Is it possible now to put additional requirements on this project?

Ms. Goeden replied: There are a couple of things that could be done. As far as monitoring, if you wanted to monitor more now, you could. Because currently the monitoring doesn't occur until the project is finished.

There is two million dollars set aside and a piggybank somewhere at the Port of Oakland that a portion of could be used to do that monitoring. There is the possibility that we could ask them to use some of that money to do some monitoring now.

Currently, we have what you would consider interim habitat. Next year with the federal funding that is coming forward, they are going to bring a dredge in there and re-sculpt the area. Whatever you would monitor this year is not going to be there next year.

The other road that we could go down with the Corps is calling into action code of federal regulation 930.45 which is the availability of mediation for previously reviewed activities. In that there are a couple of provisions that allow the state to re-open their decision but it would have to be based on us having significant concerns on the project.

It seems like we could use this provision. I imagine it would take some negotiation with the Army Corps to make this a reality.

Ms. Imee Osantowski addressed the Commission: I am with the Port of Oakland. I just wanted to clarify that the two million in reference that is currently held in the Port's capital budget is intended as a cost-share for the entire 50 Foot Project including the Middle Harbor. It's not necessarily just for the monitoring.

Commissioner Bates made a request of staff: I would request that the staff go back and look at this and make some determinations about what conditions we could put on this project and what monitoring would make a lot of sense for us to do. They can bring it back to the Commission and give us the authority that we might have and what options we might be able to exercise.

Commissioner Doherty commented: I was thinking about the timing after the re-sculpting happens and before the eelgrass transplanting happens. In the Bay Bridge eelgrass mitigation there was a million dollars of funding for this type of mitigation and seemed like it had a very low success rate. I was wondering about this topic of monitoring before we do a large-scale transplanting project of eelgrass to really make sure that the area has settled after that re-grading or to think about whether we need to do a phase approach or maybe doing a pilot project to demonstrate eelgrass transplantation to see how that is coming along before harvesting a lot of eelgrass from Bay Farm Island.

Commissioner McGrath spoke: First of all I want to thank everyone and give the staff real props for the lessons learned. I think you treat all of these things as learning experiences.

I appreciate the testimony by the Corps, the Port of Oakland and David Lewis. I learned a lot. Big doesn't scare me. You can't expect that you are going to be able to predict everything.

This project was my idea. I could hardly be called a disinterested party. I want my fellow Commissioners to understand that any interested party could ask me to recuse myself on this. I would have to recuse myself if it came back in a regulatory context.

I negotiated these permit conditions. I tried with Travis to develop fixes for everything. There were things in there that were less than perfect. I think we're trying to coax this into a successful and transparent outcome. Both of those things are extremely important.

I've spoken at great length to the staff and the Port that it is clear that this was constructed in a somewhat different manner and that there is a lot more mud in this than was anticipated in the construction. That has a direct impact in that if you add a lot of mud it's going to consolidate for a lot longer period of time.

I would like to suggest that there has been a substantial amount of habitat on an interim basis. I don't think you should ignore the interim values.

I must assume that everybody here worked in good faith to cope with the slow pace of Congressional funding and try to juggle three different restoration projects and make them all successful.

I don't think any of us can assume that Middle Harbor is a success or a failure. We don't know whether it will meet its restoration objectives or if it has or that it has achieved other values that are important.

We do need to know, and I'm encouraged by the discussions, and the negotiations about doing some monitoring.

The staff has said everything in the lessons learned that I hoped that they would say and that maybe we should go back to the TAC more often, maybe we should do a little monitoring about the interim conditions and make sure that we understand, has this settled enough; is there something here we may want to keep before we muck it around.

Those lessons learned were extremely important. The one thing that I would re-emphasize is that when you get into complicated issues like this, maybe we should consider in the future making sure that the staff has the technical resources so that they would understand what the implications are if you change the sediment composition. That's something that is going to be apparent to people without a certain level of background.

This is something that we need to think about in making sure that when we're implementing conditions that staff have the tools that they need to make sure that there's compliance on technically difficult ones.

I'm very encouraged by what I have heard today and I appreciate it.

Chair Wasserman commented: I want to thank everybody that worked on this and particularly the lessons learned. We are not done looking at those by a long shot. I want to thank David Lewis for his questions.

I think it's going to be very important as we go forward to separate our considerations from this project and what we can do, what we should do and how we're going to pay for it.

You might note that those echo the comments about the campaign about rising sea level.

One of the points that Brenda made is the provision in Dredging Policy 11 that, this shall not be done until this is completed, is for re-using dredged material doesn't apply to projects which are creating horizontal levees, putting in marshland that are not using dredged material. I believe and I hope that we are going to re-visit that limitation before we have some final results on this particular project. I think we are going to have to separate that.

The questions and comments that have arisen about monitoring more closely in general, we need to think about very seriously. It will be a piece of the work for the Bay Fill Committee. We need to recognize that we are in a very different position today about Bay fill than we were when this project started.

We know today that we are going to have to fill the Bay, not simply as a habitat experiment, but as a saving our built environment experiment. And we're going to have to do it in all kinds of places and all kinds of ways.

One of the things that I hope scares everybody is that if every experiment takes 14 years to even begin to understand, we are in very deep waters.

All of these things are going to have to be done and I am talking to staff and to the Commission. One of my requests to staff is, even now, to go back and look at permits we've approved and think about some interim reporting processes on what's going on, whether there are funding problems, whether there are other delays and whether there are other changes that affect some of our conditions and some of our expected outcomes; in particular with regard to rising sea level but not limited to that.

This presentation has been terrific; probably too delayed, but it's here now and we need to work with it and use it both for this project but even more importantly for the other projects that we have done and we're going to have to do.

We will now go to Item 10.

**10. Public Hearing on an Application by RWC Harbor Communities, LLC, to Construct Blu Harbor Residential Community at 1 Uccelli Boulevard, in the City of Redwood City, San Mateo County; BCDC Permit Application No. 2014.004.00.** Chair Wasserman announced: Item 10 is a public hearing on the application to construct the Blu Harbor residential development at the site of the former Pete's Harbor. Erik Buehmann will introduce the project and then we'll open the public hearing.

Mr. Buehmann presented the following: On October 24<sup>th</sup> you were mailed a summary of an application to construct the Blu Harbor Residential Development located at the area formerly known as Pete's Harbor at 1 Uccelli Boulevard in the City of Redwood City, San Mateo County. The proposed project involves constructing a portion of a residential development within the 100 foot shoreline band. Development proposed within the shoreline band includes the partial footprint of four, nine-unit residential buildings totaling 5,393 square feet, 31,482 square feet of roadways and parking and 110,939 square foot public access area including a 1,260 square foot long Bay Trail spur, public access landscaping and park facilities.

After the mailing of the staff summary the applicant informed staff that the unit count described in the summary has changed for the total overall project. The total project would consist of 11 residential buildings mostly outside of BCDC jurisdiction consisting of one 308-unit building and four, ten-unit and six, nine-unit buildings.

Four of the nine-unit buildings would be located partially inside the shoreline band totaling 402 units inside and outside BCDC jurisdiction with an expected occupancy of approximately 737 residents.

The project would also contain a 10,000 square foot clubhouse, 580 surface parking stalls and 228,000 square foot parking garage. The great majority of the proposed development would occur outside of the Commission's jurisdiction.

The Commission's Bay and shoreline band jurisdiction is limited to Smith's Slough which runs to the north of the site and to the unnamed slough running west of the site, Redwood Creek to the east below its confluence with Smith's Slough including the inner harbor of the project site is outside of the Commission's jurisdiction.

As a result, although the project is surrounded by water on three sides the Commission has shoreline band jurisdiction over only the north and west sides.

There is no Bay fill or shoreline treatment proposed below the mean high tide lines for this project. The applicant would remove approximately 1,345 square feet of pile-supported fill in the Bay consisting of an existing restaurant and remaining marina facilities left over from the site's previous use as a marina.

The public access area would include a Bay Trail pathway, associated landscaping and park facilities including trellises overlooks, a public playground, bocce ball court, a gazebo and seating areas and bike racks.

There would be seven parking places reserved for public access adjacent to the center of the public access area which includes a wash-down station for hand-launched boats. An ADA-accessible water trail access launch for human-powered boats would be constructed in the inner harbor outside of the Commission's jurisdiction.

Three view corridors would be dedicated immediately offsite. The applicant proposes to renovate Uccelli Boulevard and install a bike lane and sidewalk. This Bay Trail segment would connect to the inner Bair Island public access trails via an existing bridge.

The Bay Plan policies on public access include policies related to sea level rise. Bay Plan Policy 4 states, public access should be sited, designed, managed and maintained to avoid significant adverse impacts from sea level rise and storm flooding. Public Access 7 States in part, any public access provided as a condition of development should either be required to remain viable in the event of future sea level rise or flooding or equivalent access consistent with the project should be provided nearby.

To ensure that the public access remains viable in the event of future sea level rise and future storm events the applicant proposes to raise the grade of the entire site inside and outside of the Commission's jurisdiction to five feet above the current grade.

The grade would rise from the current elevation of between nine to thirteen feet NAVD to a final elevation of 15.01 feet NAVD 88.

To protect the raised site from seismic forces, erosion from wind waves, tidal scour and to support the weight of the fill, the applicant proposes a shoreline stabilization system comprised of three elements.

One element is a deep-soil mixture buttress underground to improve the strength of the existing soil and fill and provide lateral stability in the event of an earthquake.

Two, a concrete retaining wall would contain and support the fill.

And three, a sheet-pile fascia wall fronting the retaining wall would protect the retaining wall and fill from scour along the shoreline.

The National Research Council's current projection for sea level rise in our region is 36 inches at the end-of-century plus or minus 10.

Based on a total water level analysis of the proposed site elevations, the public access would be resilient to a 100-year storm event at the end-of-century sea level rise estimate of 36 inches.

The applicant has chosen to adopt a design based on an even more conservative projection designing the public access to be resilient up to a 100-year storm event at 55 inches of sea level rise.

The water levels are demonstrated in Exhibits J and K of the summary. Exhibit J shows a mid-century projection and Exhibit K shows an end-of-century projection.

The project's design for sea level rise has evolved over the life of the project. Originally the applicant proposed to raise the grade only three feet. To adapt to projected sea level rise and future storm events the applicant proposed a conceptual flood wall.

The Commission staff expressed concern that the public access would not remain viable for the life of the project. As a result, the applicant substantially revised its design to the current proposal.

The staff believes that the application raises one primary issue, whether the proposed public access improvement are consistent with McAteer-Petris Act and the Bay Plan policies on public access including policies on sea level rise, appearance, design and scenic views and Bay natural resources.

I have a correction to make to the staff summary. The summary stated that there would be approximately one foot of freeboard between the top of the proposed retaining wall and a 100-year storm event at projected 36 inches of sea level rise; the amount of freeboard would actually be approximately two feet.

Here to present the project is Paul Powers representative from RWC Harbor Communities and Matt Gruber of Callander Associates.

Commissioner Gibbs inquired: One of the things that we wanted to do at the Commission is encourage in-fill development in sites like this and have it be prepared for adaptation to future sea level rise. Am I correct in stating that this is the first major example of a project like that we will consider?

Chair Wasserman responded: We certainly had some elements of that on the Redwood Harbor and the Phoenix Cove. This may be the largest example of that.

Commissioner Gibbs replied: So this is of a larger magnitude than those. Okay. Thank you.

Mr. Paul Powers addressed the Commission: I am with the applicant. We have slides that I'd like to go through rather quickly. Once we've gone over aspects of the public access component, we will get to sea level rise.

The project location is in Redwood City at formerly Pete's Harbor.

The project is primarily asphalt today. The proposed project will have nearly five acres of permeable landscaping and bio-squares and so on.

The connectivity to the Bay Trail is primarily for pedestrians and bicyclists. There are a number of spurs that we are planning to build that will make up this connectivity.

We are planning to install the hand-rowed boat launch on non-BCDC jurisdictional areas.

The parking will be central to the picnic area, the bocce ball court and to the staging and wash-down area for the hand-rowed boat launch.

We've arranged the buildings in such a manner that there will view corridors into the inner harbor and from the inner harbor out to the Bair Island Wildlife Refuge.

There will be six observation plazas in this project. This gives the public an opportunity to get very close to the water. There will be railings at these observation plazas so that children won't fall in the water.

We worked with your Design and Review Board to have Bay-friendly species in our landscaping near the water.

We have had some first-hand experience in planning for sea level rise just up the street in another one of our projects. The method we used to protect the shoreline at that project we would not use again.

In working with staff we elected to build in anticipation of a full 55 inches of sea level rise and then a 100-year storm on top of that.

After meeting with shoreline stabilization experts we have decided to take the recommendation of NGO Geotechnical Engineers and go to deep-soil mixing. We mix cementitious materials into the Bay mud, not cement. This becomes a buttress and the Port of Oakland and the Oakland Airport have used this method. We did not want to use a technique that had not been used before and was unproven.

We think this deep-soil method is important for the stabilization of the shoreline but for Bay mud's characteristics of liquefaction in seismic events. All of us here are making a huge investment in public access on the shoreline and we'd like it to last.

That is our presentation and we are ready for questions.

Chair Wasserman opened the public hearing on this item.

The Chair recognized Allison Madden.

Ms. Madden commented: I am the Secretary of San Francisco Bay Marinas for All. We are a California public-benefit non-profit. We desire that more marinas be built to replace those that have been lost to development.

Port facilities like marinas are favored and not dis-favored fill under the McAteer-Petris Act and shouldn't be looked at as dis-favored fill on something that should be easily removed.

We advocate the maintenance, building and operation of marinas on a non-profit basis to serve all public-trust uses with a primary focus on commercial, recreational and educational uses including water trail access and a rule-of- reason number for live-aboard boaters that is complementary to these water-based uses.

Actual practice has shown for decades that such live-aboards form a law-abiding community of professionals who inherently constitute a safe alternative local community that actually advocates and fosters water-based commercial and recreational uses.

We've lost two marinas in Redwood City with approximately 700 slips to the two developments that are being spoken of today.

Ms. Jennifer Lucchesi of the State Lands Commission in a recent comment to the Commission in a public meeting confirmed to that Commission the importance of marinas in enabling statewide public-trust use of tide and submerged lands.

The McAteer-Petris Act says that the solution for conserving and preserving the Bay shoreline and not encroaching on the Bay and not filling it; the exact solution is private development. That exact solution is becoming the exact problem in building right up to the Bay.

I don't believe that the most recent PD permit approval discussed raising the land by five feet. They were talking about a levee. There has been no discussion about financing and building a levee in Redwood City. I don't believe that what is being proposed in the permit here is exactly what the Planning Commission voted on in the PD permit in Redwood City.

I would advocate that the Commission here act on something that has been specifically included in the EIR and specifically approved by the local authority.

I previously provided to staff a photo showing that this property wasn't just asphalt. It was tide and submerged lands. It had waterways running through it. It was public-trust land that was taken. It was dredged and it was filled with all kinds of washing machines and sofas and I have no doubt that adding landscaping is an improvement. This was public-trust land that belonged to the people. It was taken from the people in 1983 by a legislative act to give title to Pete Uccelli and that can only be lawful to the extent that that land is used for a public-trust purpose.

This is a high-end private development and we still have many questions.

Chair Wasserman continued: There are no other public speakers. I would entertain a motion to close the public hearing.

**MOTION:** Vice Chair Halsted moved to close the public hearing, seconded by Commissioner Randolph. The motion carried by a voice vote with no abstentions or objections.

Chair Wasserman called for comments or questions from the Commissioners.

Commissioner Zwissler commented: What is the elevation of the surrounding land? If this goes up 15 feet, is there access 15 high to get to this property?

Mr. Buehmann replied: I believe the elevation to the south of the property is at the same elevation as the current grade and it is nine to thirteen feet NAVD. It would be lower than the raised harbor site.

Commissioner Zwissler clarified: So, do I understand that to say that this would become an island?

Mr. Buehmann answered: Yeah. The area would be raised and everything surrounding would be lower. In storm events it would become an island.

Commissioner Nelson commented: Our public speaker raised two questions that are important for staff to address. Our procedures call for full local permits before we act, that is an issue that staff should make sure we are up to speed on that.

Second is the question about public trust uses. That gets to the question of whether the applicant has appropriate title.

Commissioner Pine spoke: Is the solution for sea level rise and storm events entirely the elevation of the site? I am not quite sure what role the sea wall plays.



Mr. Buehmann replied: The sea wall is more like a retaining wall against the site to make sure that the fill doesn't fall forward. In front of the sea wall there will be a sheet-pile wall or sheet-pile fascia and that will be driven down below the scour line to protect that sea wall and the fill and the deep-soil mixing from scour.

Commissioner Pine continued: So there won't be a sea wall elevated above the used land level?

Mr. Buehmann answered: I don't believe so. There is a proposed railing.

Commissioner Pine addressed the potential island effect: This potential island effect is a concern. Today the area is subject to flooding in a king tide event. There will be a tremendous amount of fill here and water could find its way to some of the use areas.

How do you get your boat to the boat-launch area?

Mr. Powers responded: In order to get to the elevation of 15 foot at the site will require a varying amount of fill across the site. There are places where it is as little as 18 inches and others where it is as much as four and a half feet.

The ramp for the boat-launch area will have to be ADA approved because this will be a public area. The ramp is over 80 feet long and the walkway to get out to the launch was located in the current plan after extensive talks with potential users.

Chair Wasserman clarified the question: Why do the novices prefer the launch at the end of the long walkway?

Mr. Powers answered: They prefer it so they don't have to maneuver among the boats in the marina. The launch would be close to Redwood Creek. People currently tow their craft behind them as they walk to the launch.

Commissioner Doherty inquired: What are your plans for project financing or funding to make sure that the public access will be viable over the future given sea level rise?

Mr. Powers responded: This is a question we have spent a lot of time on. We went for a potential 55 inch sea level rise provision because we couldn't fathom the notion of convincing somebody that the plan of adaptation to get from 36 to 55 would be something that would be readily explainable or believable to a potential source of finance.

This project is financed. Whether it could be financed if we only provided for 36 inches of sea level rise; I can't really tell you because we sought our financing on the basis of 55 inches.

Commissioner Doherty further inquired: What about in the future, maintenance? What kind of project financing or funding do have for that?

Mr. Powers replied: The maintenance under this plan would be quite minimal because we will have a sheet-pile fascia protecting the concrete wall and then the concrete wall and the fascia protecting the deep-soil mix buttresses.

Commissioner Doherty added: So in essence you're saying, you don't have a plan for long-term maintenance funding?

Mr. Powers replied: We will be maintaining this entire thing as a part of our residential community. We will be maintaining the landscaping and the railings and everything out there.

Commissioner Doherty had a question for the staff: Is the Design Review Board specifically tasked with looking at seismic safety considering a changing Commission under sea level rise?

Mr. Buehmann replied: The Engineering Criteria Review Board is the Board that looks at that. Their purview is not over projects in the shoreline band, it's just for fill in the Bay. They did not review this project.

Commissioner Doherty continued: What do we do in terms of the technical expertise for thinking of the intersections for seismic safety and sea level rise?

Mr. Buehmann responded: We had our staff engineer review a lot of these designs. Once we issue a permit we would have a plan review condition and a permit requirement that would require long-term measures be approved by staff.

Commissioner Doherty had a final question: Are there any opportunities here for looking at living shoreline components or any habitat benefits for that slope?

Mr. Matt Gruber replied: We are definitely planting out a slope. Everything in front of where the DSM and the soil are going to be is going to have a hydro-seed mix with appropriate plant material. It will be a lot of native Bay area plants.

Commissioner McGrath commented: Certainly this is not something I would be excited on a greenfield site but it's not a greenfield site. It's been highly altered.

Assuming that the public trust has been extinguished on this property in a legally-sustainable way, first of all, the deep-soil mixing is indeed an acceptable and state-of-the-art mechanism for stabilization. It was used extensively at the Port of Oakland with great success and they have very good earthquake engineering.

Second, there are slips here although not as many as there were. This is beyond our jurisdiction.

I asked about the kayak launch for exactly the reasons that Commissioner Pine has raised. Penney Wells, one of the people who sponsored the water trail and her reaction was that kayakers would know that it requires wheels and they will bring them. It is not perfect but it is a distinct improvement over what is there now.

Looking at what used to be there, there is a very significant improvement in public access that ties in well with the existing and proposed access way.

Commissioner Gibbs commented: I hope that staff will come back to us with an evaluation of whether or not you consider the sea level rise mitigation proposals here to be adequate.

Second, it seems like a project that is going to attract a lot of people to the area. I noted that there were seven parking spaces provided for public access. Have you considered or had dialogue with the proponent as to whether or not these seven spaces are sufficient?

Mr. Buehmann replied: I believe the original proposal was for four spaces. This was something that the Design and Review Board specifically commented on and said they needed more.

Commissioner Gibbs replied: I appreciate that seven is a substantial improvement over four but that is not really the question.

Regulatory Program Director Brad McCrea responded: This did come up and we had extensive conversations about it. I'll let the applicant defend their position about why it's seven. The site is constrained, an odd configuration. A lot of it is roadway so finding places for cars was very difficult. The only way to add more spaces was to diminish the public access or start to remove dwellings.

I think that if you want more parking we're talking about fewer homes.

Chair Wasserman addressed a procedural matter: We are going to reconvene as a special committee after we adjourn our regular meeting. I would entertain a motion to adjourn.

**11. Adjournment.** Upon motion by Vice Chair Halsted, seconded by Commissioner Nelson, the Commission meeting was adjourned at 4:10 p.m., by voice vote with no abstentions or objections.

Chair Wasserman announced: We will now reconvene as a special committee and proceed. Now, Mr. Powers, you may answer the question.

Mr. Powers spoke: Commissioner Gibbs, in addition to the seven spaces, I want to be candid with you. We are not as friendly to vehicles here as we are to the pedestrians and the bikes. That said, less than a block away is a giant public parking garage that the U.S. Fish and Wildlife Service has provided. Currently it is hardly ever used. We think it will be used in the future. We hope that visitors aren't in vehicles but we do think the level of public access amenities that we placed out here will attract people.

I would guesstimate that there are 50 spaces in this garage but it might be 80.

Commissioner Gibbs added: That sounds like it offers some hope for a solution. There's nothing so frustrating as trying to have access to the Bay and then driving down and you can't have access because there is nowhere to park.

I hope staff will continue to dialogue about this.

Chair Wasserman continued: Any other comments or questions? (He received none) The hearing has been closed and this will come back for a vote at our next Commission meeting. I would entertain a motion to adjourn the special committee.

**MOTION:** Commissioner McGrath moved to close the special committee, seconded by Commissioner Nelson.

The special committee was adjourned at 4:13 p.m.

Respectfully submitted,

LAWRENCE J. GOLDZBAND  
Executive Director

Approved, with no corrections, at the  
San Francisco Bay Conservation and  
Development Commission Meeting  
of November 20, 2014.

R. ZACHARY WASSERMAN, Chair